

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GEORGE PADULA

Docket No.:

Plaintiff,

-against-

**AMENDED
COMPLAINT**

EBAY, and MAXARMORY

Defendants.
-----X

COMPLAINT

Plaintiff George Padula by and through his attorney Elio Forcina Esq., alleges in this Amended Complaint against Defendants EBAY and MAXARMORY, on knowledge as to Plaintiff and on information and belief as to all other matters, as follows:

THE PARTIES

1. At all times hereinafter mentioned, Plaintiff George Padula is an individual currently incarcerated at FCI Allenwood Low in Allenwood, Pennsylvania. Prior to his incarceration, Plaintiff resided at 54 Florence Place, Staten Island, NY 10309. Plaintiff has spent his entire life in Staten Island and intends to return to this address upon his release from federal custody.

2. At all times hereinafter mentioned, Defendant eBay is a California corporation with an address at 2025 Hamilton Avenue, San Jose, CA 95125.

3. At all times hereinafter mentioned, Defendant MaxArmory is a Florida corporation with an address at 6601 Lyons Road, Suite D1, Coconut Creek, FL 33073.

JURISDICTION AND VENUE

4. This Court has diversity jurisdiction over the parties pursuant to 28 U.S.C. §1332. Each of the Defendants are entities of a state different than that of the Plaintiff and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Defendant eBay was incorporated in California and later reincorporated in Delaware. Defendant MaxArmory was incorporated in Florida. Plaintiff is an individual domiciled in New York. Further, Plaintiff is seeking an amount in damages that exceeds \$75,000.00.

5. Venue is proper pursuant to 28 U.S.C. 1391(b) because the events giving rise to the allegations in this complaint occurred in this district.

FACTS

6. Plaintiff purchased a Zoraki M2918 Black Semi Front Vent Blank 9mm PA- Safe Movie prop gun on January 11, 2016 from eBay's website, the distributor of the prop gun being Maxarmory.

7. The guidelines for the purchase were that the item can't be converted to shoot lethal projectiles. Further, that any airsoft guns, replica guns, or other imitation firearms that can be converted to shoot lethal projectile cannot be listed. This includes replica guns that were made by converting real guns, even if the replica cannot be converted back to a working gun.

8. Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns or starter pistols regardless of their markers cannot be listed for purchase.

9. The prop gun Plaintiff was sold was not within the eBay guidelines as guaranteed and as a result Plaintiff was arrested for use, carry, and possession of a firearm on or about December 5, 2016. eBay's Firearms, weapons, and knives policy is attached as **Exhibit "A"**.

10. eBay's Firearms, weapons, and knives policy states:

- *Firearms, weapons, and knives policy overview*
- *What are the guidelines?*
- *Additional information*
- *Why does eBay have this policy?*

We take our role in community safety seriously, and in accordance with government regulations and international laws, we prohibit the sale of certain weapons on eBay.

What are the guidelines?

Airsoft, replica, or other imitation firearms

Allowed in some situations

- *You can list airsoft guns, replica guns, or other imitation firearms as long as:*
- *You follow all other applicable laws. For example, in most states, you have to be at least 18 years old to buy an airsoft gun*
- *The item has a blaze orange barrel plug permanently attached to the weapon. Some states and localities may have additional requirements for color markings on these items and you must comply with these requirements if you are shipping to those jurisdictions*
- *The item can't be converted to shoot lethal projectiles*

- *The picture of the item shows the actual item for sale as a whole. Stock photos and pictures showing only a portion of the item are not allowed*
- *You must copy and paste the following disclaimer into your listing and product: "This replica gun contains the colored markings required by law, including a permanently attached orange plug."*

You can also list:

- *Parts and accessories for airsoft weapons can be listed as long as they are not classified as an assault weapon or have a name matching an assault weapon*
- *Ammunition magazines for replica airsoft firearms that show the top of the magazine. You need to include a picture of the item in your listing and product to show that your item isn't a real assault weapon magazine*
- *Novelty lighters that look like guns can be sold, as long as they're listed in the Collectibles > Tobacciana > Lighters category and the starting bid price is less than \$50.00*
- *Miniature firearms, like those that come with action figures. You need to describe the item's size in your listing and product, and include a picture that shows scale using a ruler or a coin*
- *Paintball guns without replica markings (such as an orange plug) as long as they're listed in one of the Sporting Goods > Outdoor Sports > Paintball categories. The listing and product must describe the item as a paintball gun and can't describe the item as a firearm*
- *Training firearms, which are brightly colored, solid plastic replicas. In your listing and product, you'll need to include a picture of your item showing that it's solid and that it isn't real*

*Not allowed
You cannot list:*

- *Airsoft guns, replica guns, or other imitation firearms that can be converted to shoot a lethal projectile*
- *Any replica firearms that don't have permanent blaze orange barrel markings. If the markings look fake or temporary, the listing or product will be removed*
- *Paintball cannons*
- *Parts and accessories for replica assault weapons, including airsoft or imitation firearms that are based on actual assault weapons*
- *Replica guns that were made by converting real guns, even if you can't convert them back to a working gun*
- *Silencers for airsoft guns, replica guns, or other imitation firearms*

You cannot list: Not allowed

- *Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns*
- *Starter pistols or blank guns, regardless of their markings*
- *Pin fire guns*
- *Zip guns*
- *Cannons (see exceptions above)*

Not allowed

You cannot list:

- *Ammunition used in a firearm, including, but not limited to:*
- *Live ammunition*
- *Blank ammunition*
- *Inert ammunition*
- *Dummy ammunition*
- *Complete paper cartridges*

11. Michael Beck used the gun in a crime. George Padula conceded that he purchased the movie prop gun on eBay in which eBay stated that the prop gun could not be converted to a working gun. Because of the depraved act of Michael Beck, George Padula was indicted for illegal possession of a firearm. On June 28, 2021, Mr. Padula was sentenced by the Honorable Raymond J. Dearie to 66 months in prison. Please find the indictment attached as **Exhibit “B”**.

12. Contrary to eBay’s warranty that the prop gun could not be converted to a working gun, ballistics experts for the Government tested the starter pistol and determined that it could be converted to fire. During Mr. Padula’s sentencing, the Honorable Raymond J. Dearie goes on to state that there was “very little doubt that [the weapon] does qualify as a firearm given the materials before me and... report where the experts converted this weapon.” That the prop gun was in fact an illegal firearm essentially makes eBay one of the biggest traffickers of firearms in the world and makes PayPal and the United States post office complicit in such crimes. Please find the sentencing transcript attached as **Exhibit “C”**.

13. Defendant owes an amount of \$100,000,000 plus interest as agreed.

COUNT I.
(Breach of Contract)

14. Plaintiff repeats and realleges each allegation set forth previously in this complaint.

15. Plaintiff purchased a Zoraki M2918 Black Semi Front Vent Blank 9mm PA- Safe Movie prop gun on January 11, 2016 from eBay’s website, the distributor of the prop gun being Maxarmory.

16. The guidelines for the purchase were that the item can't be converted to shoot lethal projectiles. Further, that any airsoft guns, replica guns, or other imitation firearms that can be converted to shoot lethal projectile cannot be listed, as well as replica guns that were made by converting real guns, even if you can't convert them back to a working gun cannot be listed for purchase.

17. Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns or starter pistols regardless of their markers cannot be listed for purchase.

18. The prop gun Plaintiff was sold was not within the eBay guidelines as guaranteed and as a result Plaintiff was arrested for possession of a gun. On or about December 5, 2016 Plaintiff was arrested for use, carry, and possession of a firearm. eBay's Firearms, weapons, and knives policy is attached as **Exhibit "A"**.

19. eBay's Firearms, weapons, and knives policy states:

- *Firearms, weapons, and knives policy overview*
- *What are the guidelines?*
- *Additional information*
- *Why does eBay have this policy?*

We take our role in community safety seriously, and in accordance with government regulations and international laws, we prohibit the sale of certain weapons on eBay.

What are the guidelines?

Airsoft, replica, or other imitation firearms

Allowed in some situations

- *You can list airsoft guns, replica guns, or other imitation firearms as long as:*
- *You follow all other applicable laws. For example, in most states, you have to be at least 18 years old to buy an airsoft gun*
- *The item has a blaze orange barrel plug permanently attached to the weapon. Some states and localities may have additional requirements for color markings on these items and you must comply with these requirements if you are shipping to those jurisdictions*
- *The item can't be converted to shoot lethal projectiles*
- *The picture of the item shows the actual item for sale as a whole. Stock photos and pictures showing only a portion of the item are not allowed*
- *You must copy and paste the following disclaimer into your listing and product: "This replica gun contains the colored markings required by law, including a permanently attached orange plug."*

You can also list:

- *Parts and accessories for airsoft weapons can be listed as long as they are not classified as an assault weapon or have a name matching an assault weapon*
- *Ammunition magazines for replica airsoft firearms that show the top of the magazine. You need to include a picture of the item in your listing and product to show that your item isn't a real assault weapon magazine*
- *Novelty lighters that look like guns can be sold, as long as they're listed in the Collectibles > Tobacciana > Lighters category and the starting bid price is less than \$50.00*
- *Miniature firearms, like those that come with action figures. You need to describe the item's size in your listing and product, and include a picture that shows scale using a ruler or a coin*

- *Paintball guns without replica markings (such as an orange plug) as long as they're listed in one of the Sporting Goods > Outdoor Sports > Paintball categories. The listing and product must describe the item as a paintball gun and can't describe the item as a firearm*
- *Training firearms, which are brightly colored, solid plastic replicas. In your listing and product, you'll need to include a picture of your item showing that it's solid and that it isn't real*

Not allowed
You cannot list:

- *Airsoft guns, replica guns, or other imitation firearms that can be converted to shoot a lethal projectile*
- *Any replica firearms that don't have permanent blaze orange barrel markings. If the markings look fake or temporary, the listing or product will be removed*
- *Paintball cannons*
- *Parts and accessories for replica assault weapons, including airsoft or imitation firearms that are based on actual assault weapons*
- *Replica guns that were made by converting real guns, even if you can't convert them back to a working gun*
- *Silencers for airsoft guns, replica guns, or other imitation firearms*

You cannot list: Not allowed

- *Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns*
- *Starter pistols or blank guns, regardless of their markings*
- *Pin fire guns*
- *Zip guns*
- *Cannons (see exceptions above)*

Not allowed
You cannot list:

- *Ammunition used in a firearm, including, but not limited to:*
- *Live ammunition*
- *Blank ammunition*
- *Inert ammunition*
- *Dummy ammunition*
- *Complete paper cartridges*

20. Michael Beck used the gun in a crime. George Padula conceded that he purchased the movie prop gun on eBay in which eBay stated that the prop gun could not be converted to a working gun. Because of the depraved act of Michael Beck, George Padula was indicted for illegal possession of a firearm. On June 28, 2021, Mr. Padula was sentenced by the Honorable Raymond J. Dearie to 66 months in prison. Please find the indictment attached as **Exhibit “B”**.

21. Contrary to eBay’s warranty that the prop gun could not be converted to a working gun, ballistics experts for the Government tested the starter pistol and determined that it could be converted to fire. During Mr. Padula’s sentencing, the Honorable Raymond J. Dearie goes on to state that there was “very little doubt that [the weapon] does qualify as a firearm given the materials before me and... report where the experts converted this weapon.” That the prop gun was in fact an illegal firearm essentially makes eBay one of the biggest traffickers of firearms in the world and makes PayPal and the United States post office complicit in such crimes. Please find the sentencing transcript attached as **Exhibit “C”**.

22. Defendants intentionally breached this agreement. When Plaintiff purchased the gun, he was under contract that the prop gun could not be used as a firearm. Thus, the result of Defendants breach, in providing a real firearm, was that Plaintiff was indicted for illegal use of a firearm.

23. As a result of the breach, Plaintiff has damages, which include, but are not limited to, pecuniary loss and the loss of opportunities to make substantial profits from the contract.

24. Accordingly, Defendant is liable for breach of contract.

COUNT II.
(Fraud)

25. Plaintiff repeats and realleges each allegation set forth previously in this complaint.

26. Plaintiff purchased a Zoraki M2918 Black Semi Front Vent Blank 9mm PA- Safe Movie prop gun on January 11, 2016 from eBay's website, the distributor of the prop gun being Maxarmory.

27. The guidelines for the purchase were that the item can't be converted to shoot lethal projectiles. Further, that any airsoft guns, replica guns, or other imitation firearms that can be converted to shoot lethal projectile cannot be listed, as well as replica guns that were made by converting real guns, even if you can't convert them back to a working gun cannot be listed for purchase.

28. Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns or starter pistols regardless of their markers cannot be listed for purchase.

29. The prop gun Plaintiff was sold was not within the eBay guidelines as guaranteed and as a result Plaintiff was arrested for possession of a gun. On or about December 5, 2016 Plaintiff was arrested for use, carry, and possession of a firearm. eBay's Firearms, weapons, and knives policy is attached as **Exhibit "A"**.

30. eBay's Firearms, weapons, and knives policy states:

- *Firearms, weapons, and knives policy overview*
- *What are the guidelines?*
- *Additional information*
- *Why does eBay have this policy?*

We take our role in community safety seriously, and in accordance with government regulations and international laws, we prohibit the sale of certain weapons on eBay.

What are the guidelines?

Airsoft, replica, or other imitation firearms

Allowed in some situations

- *You can list airsoft guns, replica guns, or other imitation firearms as long as:*
- *You follow all other applicable laws. For example, in most states, you have to be at least 18 years old to buy an airsoft gun*
- *The item has a blaze orange barrel plug permanently attached to the weapon. Some states and localities may have additional requirements for color markings on these items and you must comply with these requirements if you are shipping to those jurisdictions*
- *The item can't be converted to shoot lethal projectiles*

- *The picture of the item shows the actual item for sale as a whole. Stock photos and pictures showing only a portion of the item are not allowed*
- *You must copy and paste the following disclaimer into your listing and product: "This replica gun contains the colored markings required by law, including a permanently attached orange plug."*

You can also list:

- *Parts and accessories for airsoft weapons can be listed as long as they are not classified as an assault weapon or have a name matching an assault weapon*
- *Ammunition magazines for replica airsoft firearms that show the top of the magazine. You need to include a picture of the item in your listing and product to show that your item isn't a real assault weapon magazine*
- *Novelty lighters that look like guns can be sold, as long as they're listed in the Collectibles > Tobacciana > Lighters category and the starting bid price is less than \$50.00*
- *Miniature firearms, like those that come with action figures. You need to describe the item's size in your listing and product, and include a picture that shows scale using a ruler or a coin*
- *Paintball guns without replica markings (such as an orange plug) as long as they're listed in one of the Sporting Goods > Outdoor Sports > Paintball categories. The listing and product must describe the item as a paintball gun and can't describe the item as a firearm*
- *Training firearms, which are brightly colored, solid plastic replicas. In your listing and product, you'll need to include a picture of your item showing that it's solid and that it isn't real*

*Not allowed
You cannot list:*

- *Airsoft guns, replica guns, or other imitation firearms that can be converted to shoot a lethal projectile*
- *Any replica firearms that don't have permanent blaze orange barrel markings. If the markings look fake or temporary, the listing or product will be removed*
- *Paintball cannons*
- *Parts and accessories for replica assault weapons, including airsoft or imitation firearms that are based on actual assault weapons*
- *Replica guns that were made by converting real guns, even if you can't convert them back to a working gun*
- *Silencers for airsoft guns, replica guns, or other imitation firearms*

You cannot list: Not allowed

- *Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns*
- *Starter pistols or blank guns, regardless of their markings*
- *Pin fire guns*
- *Zip guns*
- *Cannons (see exceptions above)*

Not allowed

You cannot list:

- *Ammunition used in a firearm, including, but not limited to:*
- *Live ammunition*
- *Blank ammunition*
- *Inert ammunition*
- *Dummy ammunition*
- *Complete paper cartridges*

31. Michael Beck used the gun in a crime. George Padula conceded that he purchased the movie prop gun on eBay in which eBay stated that the prop gun could not be converted to a working gun. Because of the depraved act of Michael Beck, George Padula was indicted for illegal possession of a firearm. On June 28, 2021, Mr. Padula was sentenced by the Honorable Raymond J. Dearie to 66 months in prison. Please find the indictment attached as **Exhibit “B”**.

32. Contrary to eBay’s warranty that the prop gun could not be converted to a working gun, ballistics experts for the Government tested the starter pistol and determined that it could be converted to fire. During Mr. Padula’s sentencing, the Honorable Raymond J. Dearie goes on to state that there was “very little doubt that [the weapon] does qualify as a firearm given the materials before me and... report where the experts converted this weapon.” That the prop gun was in fact an illegal firearm essentially makes eBay one of the biggest traffickers of firearms in the world and makes PayPal and the United States post office complicit in such crimes. Please find the sentencing transcript attached as **Exhibit “C”**.

33. Defendants fraudulently sold a prop gun which was in fact an illegal weapon that could get its customers indicted or arrested for being a real firearm. Defendants fraudulently state on their website that the product was a prop gun. If the United States District Court Eastern District of New York is correct that the gun was an illegal firearm then Defendants committed fraud by not disclosing that the gun was a firearm and by not disclosing that they are amongst the biggest firearm traffickers in the world.

34. The fraudulent actions of Defendant caused damage to Plaintiff who is entitled to damages and other legal and equitable relief as a result.

COUNT III.
(Violation of the Consumer Fraud and Deceptive Trade Practices Acts of the New York GBL §349 brought on behalf of Plaintiff)

35. Plaintiff repeats and realleges each allegation set forth previously in this complaint.

36. Plaintiff purchased a Zoraki M2918 Black Semi Front Vent Blank 9mm PA- Safe Movie prop gun on January 11, 2016 from eBay's website, the distributor of the prop gun being Maxarmory.

37. The guidelines for the purchase were that the item can't be converted to shoot lethal projectiles. Further, that any airsoft guns, replica guns, or other imitation firearms that can be converted to shoot lethal projectile cannot be listed, as well as replica guns that were made by converting real guns, even if you can't convert them back to a working gun cannot be listed for purchase.

38. Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns or starter pistols regardless of their markers cannot be listed for purchase.

39. The prop gun Plaintiff was sold was not within the eBay guidelines as guaranteed and as a result Plaintiff was arrested for possession of a gun. On or about December 5, 2016 Plaintiff was

arrested for use, carry, and possession of a firearm. eBay's Firearms, weapons, and knives policy is attached as **Exhibit "A"**.

40. eBay's Firearms, weapons, and knives policy states:

- *Firearms, weapons, and knives policy overview*
- *What are the guidelines?*
- *Additional information*
- *Why does eBay have this policy?*

We take our role in community safety seriously, and in accordance with government regulations and international laws, we prohibit the sale of certain weapons on eBay.

What are the guidelines?

Airsoft, replica, or other imitation firearms

Allowed in some situations

- *You can list airsoft guns, replica guns, or other imitation firearms as long as:*
- *You follow all other applicable laws. For example, in most states, you have to be at least 18 years old to buy an airsoft gun*
- *The item has a blaze orange barrel plug permanently attached to the weapon. Some states and localities may have additional requirements for color markings on these items and you must comply with these requirements if you are shipping to those jurisdictions*
- *The item can't be converted to shoot lethal projectiles*
- *The picture of the item shows the actual item for sale as a whole. Stock photos and pictures showing only a portion of the item are not allowed*
- *You must copy and paste the following disclaimer into your listing and product: "This replica gun contains the colored markings required by law, including a permanently attached orange plug."*

You can also list:

- *Parts and accessories for airsoft weapons can be listed as long as they are not classified as an assault weapon or have a name matching an assault weapon*
- *Ammunition magazines for replica airsoft firearms that show the top of the magazine. You need to include a picture of the item in your listing and product to show that your item isn't a real assault weapon magazine*
- *Novelty lighters that look like guns can be sold, as long as they're listed in the Collectibles > Tobacciana > Lighters category and the starting bid price is less than \$50.00*
- *Miniature firearms, like those that come with action figures. You need to describe the item's size in your listing and product, and include a picture that shows scale using a ruler or a coin*
- *Paintball guns without replica markings (such as an orange plug) as long as they're listed in one of the Sporting Goods > Outdoor Sports > Paintball categories. The listing and product must describe the item as a paintball gun and can't describe the item as a firearm*
- *Training firearms, which are brightly colored, solid plastic replicas. In your listing and product, you'll need to include a picture of your item showing that it's solid and that it isn't real*

*Not allowed
You cannot list:*

- *Airsoft guns, replica guns, or other imitation firearms that can be converted to shoot a lethal projectile*
- *Any replica firearms that don't have permanent blaze orange barrel markings. If the markings look fake or temporary, the listing or product will be removed*
- *Paintball cannons*
- *Parts and accessories for replica assault weapons, including airsoft or imitation firearms that are based on actual assault weapons*
- *Replica guns that were made by converting real guns, even if you can't convert them back to a working gun*

- *Silencers for airsoft guns, replica guns, or other imitation firearms*

You cannot list: Not allowed

- *Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns*
- *Starter pistols or blank guns, regardless of their markings*
- *Pin fire guns*
- *Zip guns*
- *Cannons (see exceptions above)*

Not allowed

You cannot list:

- *Ammunition used in a firearm, including, but not limited to:*
- *Live ammunition*
- *Blank ammunition*
- *Inert ammunition*
- *Dummy ammunition*
- *Complete paper cartridges*

41. Michael Beck used the gun in a crime. George Padula conceded that he purchased the movie prop gun on eBay in which eBay stated that the prop gun could not be converted to a working gun. Because of the depraved act of Michael Beck, George Padula was indicted for illegal possession of a firearm. On June 28, 2021, Mr. Padula was sentenced by the Honorable Raymond J. Dearie to 66 months in prison. Please find the indictment attached as **Exhibit “B”**.

42. Contrary to eBay's warranty that the prop gun could not be converted to a working gun, ballistics experts for the Government tested the starter pistol and determined that it could be converted to fire. During Mr. Padula's sentencing, the Honorable Raymond J. Dearie goes on to state that there was "very little doubt that [the weapon] does qualify as a firearm given the materials before me and... report where the experts converted this weapon." That the prop gun was in fact an illegal firearm essentially makes eBay one of the biggest traffickers of firearms in the world and makes PayPal and the United States post office complicit in such crimes. Please find the sentencing transcript attached as **Exhibit "C"**.

43. New York General Business Law Section 349 ("GBL § 349") declares unlawful "[d]eceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in this state...".

44. The conduct of Defendants herein constitutes recurring, "unlawful" deceptive acts and practices in violation of GBL § 349, and as such, Plaintiff seek monetary damages and the entry of preliminary and permanent injunctive relief against Defendants, enjoining it from inaccurately describing, labeling, marketing, and promoting Products.

45. There is no adequate remedy at law.

46. Defendants misleadingly, inaccurately, and deceptively presents its Product to consumers.

47. Defendants improper consumer-oriented conduct—including and labeling and advertising the Products as an item that can't be converted to shoot lethal projectiles., is misleading in a material in that it, inter alia, induced Plaintiff to purchase and pay for Defendants' products when they otherwise would not have. Defendants made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

48. Plaintiff has been injured inasmuch as they paid for products that were—contrary to Defendants' representations. Accordingly, Plaintiff did not receive what they paid for.

49. Defendants' advertising and labeling induced the Plaintiff to pay a premium price for them.

50. Defendants' deceptive and misleading practices constitute a deceptive act and practice in the conduct of business in violation of New York General Business Law §349(1) and Plaintiff has been damaged thereby.

51. Defendants committed a violation of the Consumer Fraud and Deceptive Trade Practices Acts of the New York GBL §349 by deceptively taking Plaintiff's money and entering into a false contract. Defendants fraudulently stated on their website that the gun was a prop gun, however, because Defendants violated the Consumer Fraud and Deceptive Trade Practices Act George Padula was indicted for illegal use of a firearm due to the conduct of Michael Beck.

52. As a result of Defendants' recurring, "unlawful" deceptive acts and practices, Plaintiff is entitled to monetary, compensatory, treble and punitive damages, injunctive relief, restitution and

disgorgement of all moneys obtained by means of Defendants' unlawful conduct, interest, and attorneys' fees and costs.

COUNT IV.

(False Advertising, Pursuant to the New York GBL §350 brought on behalf of Plaintiff)

53. Plaintiff repeats and realleges each allegation set forth previously in this complaint.

54. Plaintiff purchased a Zoraki M2918 Black Semi Front Vent Blank 9mm PA- Safe Movie prop gun on January 11, 2016 from eBay's website, the distributor of the prop gun being Maxarmory.

55. The guidelines for the purchase were that the item can't be converted to shoot lethal projectiles. Further, that any airsoft guns, replica guns, or other imitation firearms that can be converted to shoot lethal projectile cannot be listed, as well as replica guns that were made by converting real guns, even if you can't convert them back to a working gun cannot be listed for purchase.

56. Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns or starter pistols regardless of their markers cannot be listed for purchase.

57. The prop gun Plaintiff was sold was not within the eBay guidelines as guaranteed and as a result Plaintiff was arrested for possession of a gun. On or about December 5, 2016 Plaintiff was

arrested for use, carry, and possession of a firearm. eBay's Firearms, weapons, and knives policy is attached as **Exhibit "A"**.

58. eBay's Firearms, weapons, and knives policy states:

- *Firearms, weapons, and knives policy overview*
- *What are the guidelines?*
- *Additional information*
- *Why does eBay have this policy?*

We take our role in community safety seriously, and in accordance with government regulations and international laws, we prohibit the sale of certain weapons on eBay.

What are the guidelines?

Airsoft, replica, or other imitation firearms

Allowed in some situations

- *You can list airsoft guns, replica guns, or other imitation firearms as long as:*
- *You follow all other applicable laws. For example, in most states, you have to be at least 18 years old to buy an airsoft gun*
- *The item has a blaze orange barrel plug permanently attached to the weapon. Some states and localities may have additional requirements for color markings on these items and you must comply with these requirements if you are shipping to those jurisdictions*
- *The item can't be converted to shoot lethal projectiles*
- *The picture of the item shows the actual item for sale as a whole. Stock photos and pictures showing only a portion of the item are not allowed*
- *You must copy and paste the following disclaimer into your listing and product: "This replica gun contains the colored markings required by law, including a permanently attached orange plug."*

You can also list:

- *Parts and accessories for airsoft weapons can be listed as long as they are not classified as an assault weapon or have a name matching an assault weapon*
- *Ammunition magazines for replica airsoft firearms that show the top of the magazine. You need to include a picture of the item in your listing and product to show that your item isn't a real assault weapon magazine*
- *Novelty lighters that look like guns can be sold, as long as they're listed in the Collectibles > Tobacciana > Lighters category and the starting bid price is less than \$50.00*
- *Miniature firearms, like those that come with action figures. You need to describe the item's size in your listing and product, and include a picture that shows scale using a ruler or a coin*
- *Paintball guns without replica markings (such as an orange plug) as long as they're listed in one of the Sporting Goods > Outdoor Sports > Paintball categories. The listing and product must describe the item as a paintball gun and can't describe the item as a firearm*
- *Training firearms, which are brightly colored, solid plastic replicas. In your listing and product, you'll need to include a picture of your item showing that it's solid and that it isn't real*

*Not allowed
You cannot list:*

- *Airsoft guns, replica guns, or other imitation firearms that can be converted to shoot a lethal projectile*
- *Any replica firearms that don't have permanent blaze orange barrel markings. If the markings look fake or temporary, the listing or product will be removed*
- *Paintball cannons*
- *Parts and accessories for replica assault weapons, including airsoft or imitation firearms that are based on actual assault weapons*
- *Replica guns that were made by converting real guns, even if you can't convert them back to a working gun*

- *Silencers for airsoft guns, replica guns, or other imitation firearms*

You cannot list: Not allowed

- *Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns*
- *Starter pistols or blank guns, regardless of their markings*
- *Pin fire guns*
- *Zip guns*
- *Cannons (see exceptions above)*

Not allowed

You cannot list:

- *Ammunition used in a firearm, including, but not limited to:*
- *Live ammunition*
- *Blank ammunition*
- *Inert ammunition*
- *Dummy ammunition*
- *Complete paper cartridges*

59. Michael Beck used the gun in a crime. George Padula conceded that he purchased the movie prop gun on eBay in which eBay stated that the prop gun could not be converted to a working gun. Because of the depraved act of Michael Beck, George Padula was indicted for illegal possession of a firearm. On June 28, 2021, Mr. Padula was sentenced by the Honorable Raymond J. Dearie to 66 months in prison. Please find the indictment attached as **Exhibit “B”**.

60. Contrary to eBay's warranty that the prop gun could not be converted to a working gun, ballistics experts for the Government tested the starter pistol and determined that it could be converted to fire. During Mr. Padula's sentencing, the Honorable Raymond J. Dearie goes on to state that there was "very little doubt that [the weapon] does qualify as a firearm given the materials before me and... report where the experts converted this weapon." That the prop gun was in fact an illegal firearm essentially makes eBay one of the biggest traffickers of firearms in the world and makes PayPal and the United States post office complicit in such crimes. Please find the sentencing transcript attached as **Exhibit "C"**.

61. N.Y. Gen. Bus. Law §350a(1) provides, in part, as follows:

"False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful."

62. N.Y. Gen. Bus. Law § 350a(1) provides, in part, as follows:

"The term 'false advertising, including, labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity or employment to which the advertising relates under the conditions proscribed in said advertisement, or under such conditions as are customary or usual..."

63. Defendants' labeling and advertisements contain untrue and materially misleading statements concerning Defendants Products inasmuch as they misrepresent that the Product is an item that can't be converted to shoot lethal projectiles.

64. Plaintiff has been injured inasmuch as they relied upon labeling, packaging and advertising and paid a premium for the Products which were contrary to Defendants' representations. Accordingly, Plaintiff did not receive what they paid for.

65. Defendants advertising, packaging and products labeling induced the Plaintiff to buy Defendants Product.

66. Defendant made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

67. Defendants conduct constitutes multiple, separate violations of N.Y. Gen. Bus. Law § 350.

68. Defendant made the material misrepresentations described in this Complaint in Defendants' advertising.

69. Defendants' material misrepresentations were substantially uniform in content, presentation, and impact upon consumers at large. Moreover, all consumers purchasing the Products were and continue to be exposed to Defendants material misrepresentations.

70. Plaintiff would have never purchased the prop gun had he known Defendants were falsely advertising the product and had he known the Federal Court of the United States would consider the prop gun an illegal firearm, thus would cause him to be indicted in Federal Court. If not for the misrepresentation and deceptive advertising George Padula would not have been indicted.

71. As a result of Defendants' recurring, "unlawful" deceptive acts and practices, Plaintiff is entitled to monetary, compensatory, treble and punitive damages, injunctive relief, restitution and disgorgement of all moneys obtained by means of Defendants unlawful conduct, interest, and attorneys' fees and costs.

COUNT V.

(Violation of the Consumer Fraud and Deceptive Trade Practices Acts of the Various States and District of Columbia brought on behalf of the Plaintiff)

72. Plaintiff repeats and realleges each allegation set forth previously in this complaint.

73. Plaintiff purchased a Zoraki M2918 Black Semi Front Vent Blank 9mm PA- Safe Movie prop gun on January 11, 2016 from eBay's website, the distributor of the prop gun being Maxarmory.

74. The guidelines for the purchase were that the item can't be converted to shoot lethal projectiles. Further, that any airsoft guns, replica guns, or other imitation firearms that can be converted to shoot lethal projectile cannot be listed, as well as replica guns that were made by converting real guns, even if you can't convert them back to a working gun cannot be listed for purchase.

75. Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns or starter pistols regardless of their markers cannot be listed for purchase.

76. The prop gun Plaintiff was sold was not within the eBay guidelines as guaranteed and as a result Plaintiff was arrested for possession of a gun. On or about December 5, 2016 Plaintiff was arrested for use, carry, and possession of a firearm. eBay's Firearms, weapons, and knives policy is attached as **Exhibit "A"**.

77. eBay's Firearms, weapons, and knives policy states:

- *Firearms, weapons, and knives policy overview*
- *What are the guidelines?*
- *Additional information*
- *Why does eBay have this policy?*

We take our role in community safety seriously, and in accordance with government regulations and international laws, we prohibit the sale of certain weapons on eBay.

What are the guidelines?

Airsoft, replica, or other imitation firearms

Allowed in some situations

- *You can list airsoft guns, replica guns, or other imitation firearms as long as:*
- *You follow all other applicable laws. For example, in most states, you have to be at least 18 years old to buy an airsoft gun*

- *The item has a blaze orange barrel plug permanently attached to the weapon. Some states and localities may have additional requirements for color markings on these items and you must comply with these requirements if you are shipping to those jurisdictions*
- *The item can't be converted to shoot lethal projectiles*
- *The picture of the item shows the actual item for sale as a whole. Stock photos and pictures showing only a portion of the item are not allowed*
- *You must copy and paste the following disclaimer into your listing and product: "This replica gun contains the colored markings required by law, including a permanently attached orange plug."*

You can also list:

- *Parts and accessories for airsoft weapons can be listed as long as they are not classified as an assault weapon or have a name matching an assault weapon*
- *Ammunition magazines for replica airsoft firearms that show the top of the magazine. You need to include a picture of the item in your listing and product to show that your item isn't a real assault weapon magazine*
- *Novelty lighters that look like guns can be sold, as long as they're listed in the Collectibles > Tobacciana > Lighters category and the starting bid price is less than \$50.00*
- *Miniature firearms, like those that come with action figures. You need to describe the item's size in your listing and product, and include a picture that shows scale using a ruler or a coin*
- *Paintball guns without replica markings (such as an orange plug) as long as they're listed in one of the Sporting Goods > Outdoor Sports > Paintball categories. The listing and product must describe the item as a paintball gun and can't describe the item as a firearm*
- *Training firearms, which are brightly colored, solid plastic replicas. In your listing and product, you'll need to include a picture of your item showing that it's solid and that it isn't real*

Not allowed
You cannot list:

- *Airsoft guns, replica guns, or other imitation firearms that can be converted to shoot a lethal projectile*
- *Any replica firearms that don't have permanent blaze orange barrel markings. If the markings look fake or temporary, the listing or product will be removed*
- *Paintball cannons*
- *Parts and accessories for replica assault weapons, including airsoft or imitation firearms that are based on actual assault weapons*
- *Replica guns that were made by converting real guns, even if you can't convert them back to a working gun*
- *Silencers for airsoft guns, replica guns, or other imitation firearms*

You cannot list: Not allowed

- *Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns*
- *Starter pistols or blank guns, regardless of their markings*
- *Pin fire guns*
- *Zip guns*
- *Cannons (see exceptions above)*

Not allowed
You cannot list:

- *Ammunition used in a firearm, including, but not limited to:*
- *Live ammunition*
- *Blank ammunition*
- *Inert ammunition*

- *Dummy ammunition*
- *Complete paper cartridges*

78. Michael Beck used the gun in a crime. George Padula conceded that he purchased the movie prop gun on eBay in which eBay stated that the prop gun could not be converted to a working gun. Because of the depraved act of Michael Beck, George Padula was indicted for illegal possession of a firearm. On June 28, 2021, Mr. Padula was sentenced by the Honorable Raymond J. Dearie to 66 months in prison. Please find the indictment attached as **Exhibit “B”**.

79. Contrary to eBay’s warranty that the prop gun could not be converted to a working gun, ballistics experts for the Government tested the starter pistol and determined that it could be converted to fire. During Mr. Padula’s sentencing, the Honorable Raymond J. Dearie goes on to state that there was “very little doubt that [the weapon] does qualify as a firearm given the materials before me and... report where the experts converted this weapon.” That the prop gun was in fact an illegal firearm essentially makes eBay one of the biggest traffickers of firearms in the world and makes PayPal and the United States post office complicit in such crimes. Please find the sentencing transcript attached as **Exhibit “C”**.

80. Plaintiff brings Count V individually, and on behalf of all similarly situated residents of each of the 50 states and the District of Columbia for violations of the respective statutory consumer protection laws as follows:

- a. the Alabama Deceptive Trade Practices Act, Ala. Code 1975, § 8-19-1, et seq.;
- b. the Alaska Unfair Trade Practices and Consumer Protection Act, AS §45.50.471. et seq.;

- c. the Arizona Consumer Fraud Act, A.R.S. §§ 44-1521, et seq.;
- d. the Arkansas Deceptive Trade Practice Act, Ark. Code §§4-88-101, et seq.;
- e. the California Unfair Competition Law, Bus. & Prof. Code §§17200, et seq. and 17500 et seq.; and the California Consumers Legal Remedies Act, Civil Code §1750, et seq.;
- f. the Colorado Consumer Protection Act, C.R.S.A. §6-1-101, et seq.;
- g. the Connecticut Unfair Trade Practices Act, C.G.S.A. §42-110, et seq.;
- h. the Delaware Consumer Fraud Act, 6 Del. C. §2513, et seq.;
- i. the D.C. Consumer Protection Procedures Act, DC Code §28-3901, et seq.;
- j. the Florida Deceptive and Unfair Trade Practices Act, FSA §501.201, et seq.;
- k. the Georgia Fair Business Practices Act, OCGA §10-1-390, et seq.;
- l. the Hawaii Unfair Competition Law, H.R.S. §480-1, et seq.;
- m. the Idaho Consumer Protection Act, IC §48-601, et seq.;
- n. the Illinois Consumer Fraud and Deceptive Consumer Business Practices Act, 815 ILCS 501/1 et seq.;
- o. the Indiana Deceptive Consumer Sales Act, INST §24-5-0.5-2, et seq.;
- p. the Iowa Private Right of Action for Consumer Frauds Act, Iowa Code Ann. § 714H.I, et seq.;
- q. the Kansas Consumer Protection Act, K.S.A. §50-623, et seq.;
- r. the Kentucky Consumer Protection Act, KRS 367.110, et seq.;
- s. the Louisiana Unfair Trade Practices and Consumer Protection Law, LSAR. 51:1401, et seq.;
- t. the Maine Unfair Trade Practices Act, 5 M.R.S.A. §205-A, et seq.;
- u. the Maryland Consumer Protection Act, MD Code, Commercial Law, §13-301, et seq.;

- v. the Massachusetts Regulation of Business Practices for Consumers Protection Act, M.G.L.A. 93A, et seq.;
- w. the Michigan Consumer Protection Act, M.C.L.A. 445.901, et seq.;
- x. the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §325F.68, et seq.;
- y. the Mississippi Consumer Protection Act, Miss. Code Ann. §75-24-1, et seq.;
- z. the Missouri Merchandising Practices Act, V.A.M.S. §407, et seq.;
- aa. the Montana Unfair Trade Practices and Consumer Protection Act of 1973, Mont. Code Ann. §30-14-101, et seq.;
- bb. the Nebraska Consumer Protection Act, Neb.Rev.St §§ 59-1601, et seq.;
- cc. the Nevada Deceptive Trade Practices Act, N.R.S. 41.600, et seq.;
- dd. the New Hampshire Regulation of Business Practices for Consumer Protection, N.H.Rev.Stat. §358-A:1, et seq.;
- ee. the New Jersey Consumer Fraud Act, N.J.S.A. 56:8, et seq.;
- ff. the New Mexico Unfair Practices Act, N.M.S.A. §§57-12-1, et seq.;
- gg. the New York Consumer Protection from Deceptive Acts and Practices, N.Y. GBL (McKinney) §349, et seq.;
- hh. the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen Stat. §75-1.1, et seq.;
- ii. the North Dakota Consumer Fraud Act, N.D. Cent. Code Chapter 51-15, et seq.;
- jj. the Ohio Consumer Sales Practices Act, R.C. 1345.01, et seq.;
- kk. the Oklahoma Consumer Protection Act, 15 O.S.2001, §§751, et seq.;
- ll. the Oregon Unlawful Trade Practices Act, ORS 646,605, et seq.;

- mm. the Pennsylvania Unfair Trade and Consumer Protection Law, 73P.S. §201-1, et seq.;
- nn. the Rhode Island Deceptive Trade Practices Act, G.L. 1956 §6-13.1-5.2(B), et, eq.;
- oo. the South Carolina Unfair Trade Practices Act, SC Code 1976, §§ 39-5-10, et seq.;
- pp. the South Dakota Deceptive Trade Practices and Consumer Protection Act, SDCL §37-24-1, et seq.;
- qq. the Tennessee Consumer Protection Act, T.C.A. §47-18-101, et seq.;
- rr. the Texas Deceptive Trade Practices-Consumer Protection Act, V.T.C.A., Bus. & C. §17.41, et seq.;
- ss. the Utah Consumer Sales Practices Act, UT ST §13-11-1, et seq.;
- tt. the Vermont Consumer Fraud Act, 9 V.S.A. § 2451, et seq.;
- uu. the Virginia Consumer Protection Act of 1977, VA ST §59.1-196, et seq.;
- vv. the Washington Consumer Protection Act, RCWA 19.86.010, et seq.;
- ww. the West Virginia Consumer Credit and Protection Act, W.Va. Code §46A-1-101, et seq.;
- xx. the Wisconsin Deceptive Trade Practices Act, Wis. Stat. §100.18, et, seq.;
- yy. the Wyoming Consumer Protection Act, WY ST §40-12-101, et seq.;

81. Defendants' foregoing misrepresentations and omissions regarding the nature of its Product, are deceptive and/or unfair acts or practices prohibited by the consumer fraud statutes set forth above.

82. Defendants intended to be deceptive and/or unfair to Plaintiff by intentionally making the foregoing false and misleading statements and omitting accurate statements as alleged above, because had Defendants provided accurate information, Plaintiff would not have purchased the Product and paid premium price for the Product.

83. Defendants' practice creating, approving and distributing advertising for the Product that contained false and misleading representations regarding the nature of its Product for the purpose of selling them to Plaintiff, as alleged in detail Supra, is both an unfair and deceptive practice prohibited by the foregoing statutes.

84. Defendant intended to be deceptive and unfair to Plaintiff by unlawfully representing that its Product is an item that can't be converted to shoot lethal projectiles.

85. Defendants intended that Plaintiff relies on Defendants misrepresentations as to the nature of its Product and Defendants omitted to disclose to notify Plaintiff that the in fact its product features.

86. Plaintiff justifiably relied on the misrepresentations and omissions to their detriment by purchasing the Product after seeing Defendants' advertising. Indeed, Defendants made not attempt to inform consumers that the Products are mislabeled.

87. Had Plaintiff known the truth, they would not have purchased the Product at a premium.

88. The above-described deceptive and unfair acts and practices were used or employed in the conduct of trade or commerce, namely, the sale of the Product to Plaintiff.

89. Plaintiff would have never purchased the prop gun had he known Defendants were falsely advertising the product and had he known the Federal Court of the United States would consider the prop gun an illegal firearm, thus would cause him to be indicted in Federal Court. If not for the misrepresentation and deceptive advertising George Padula would not have been indicted.

90. Pursuant to the aforementioned states' unfair and deceptive practices laws, Plaintiff is entitled to recover compensatory damages, restitution, punitive and special damages including but not limited to treble damages, reasonable attorneys' fees and costs and other injunctive or declaratory relief as deemed appropriate or permitted pursuant to the relevant law.

COUNT VI.
(Unjust Enrichment)

91. Plaintiff repeats and realleges each allegation set forth previously in this complaint.

92. Plaintiff purchased a Zoraki M2918 Black Semi Front Vent Blank 9mm PA- Safe Movie prop gun on January 11, 2016 from eBay's website, the distributor of the prop gun being Maxarmory.

93. The guidelines for the purchase were that the item can't be converted to shoot lethal projectiles. Further, that any airsoft guns, replica guns, or other imitation firearms that can be converted to shoot lethal projectile cannot be listed, as well as replica guns that were made by

converting real guns, even if you can't convert them back to a working gun cannot be listed for purchase.

94. Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns or starter pistols regardless of their markers cannot be listed for purchase.

95. The prop gun Plaintiff was sold was not within the eBay guidelines as guaranteed and as a result Plaintiff was arrested for possession of a gun. On or about December 5, 2016 Plaintiff was arrested for use, carry, and possession of a firearm. eBay's Firearms, weapons, and knives policy is attached as **Exhibit "A"**.

96. eBay's Firearms, weapons, and knives policy states:

- *Firearms, weapons, and knives policy overview*
- *What are the guidelines?*
- *Additional information*
- *Why does eBay have this policy?*

We take our role in community safety seriously, and in accordance with government regulations and international laws, we prohibit the sale of certain weapons on eBay.

What are the guidelines?

Airsoft, replica, or other imitation firearms

Allowed in some situations

- *You can list airsoft guns, replica guns, or other imitation firearms as long as:*
- *You follow all other applicable laws. For example, in most states, you have to be at least 18 years old to buy an airsoft gun*

- *The item has a blaze orange barrel plug permanently attached to the weapon. Some states and localities may have additional requirements for color markings on these items and you must comply with these requirements if you are shipping to those jurisdictions*
- *The item can't be converted to shoot lethal projectiles*
- *The picture of the item shows the actual item for sale as a whole. Stock photos and pictures showing only a portion of the item are not allowed*
- *You must copy and paste the following disclaimer into your listing and product: "This replica gun contains the colored markings required by law, including a permanently attached orange plug."*

You can also list:

- *Parts and accessories for airsoft weapons can be listed as long as they are not classified as an assault weapon or have a name matching an assault weapon*
- *Ammunition magazines for replica airsoft firearms that show the top of the magazine. You need to include a picture of the item in your listing and product to show that your item isn't a real assault weapon magazine*
- *Novelty lighters that look like guns can be sold, as long as they're listed in the Collectibles > Tobacciana > Lighters category and the starting bid price is less than \$50.00*
- *Miniature firearms, like those that come with action figures. You need to describe the item's size in your listing and product, and include a picture that shows scale using a ruler or a coin*
- *Paintball guns without replica markings (such as an orange plug) as long as they're listed in one of the Sporting Goods > Outdoor Sports > Paintball categories. The listing and product must describe the item as a paintball gun and can't describe the item as a firearm*
- *Training firearms, which are brightly colored, solid plastic replicas. In your listing and product, you'll need to include a picture of your item showing that it's solid and that it isn't real*

Not allowed
You cannot list:

- *Airsoft guns, replica guns, or other imitation firearms that can be converted to shoot a lethal projectile*
- *Any replica firearms that don't have permanent blaze orange barrel markings. If the markings look fake or temporary, the listing or product will be removed*
- *Paintball cannons*
- *Parts and accessories for replica assault weapons, including airsoft or imitation firearms that are based on actual assault weapons*
- *Replica guns that were made by converting real guns, even if you can't convert them back to a working gun*
- *Silencers for airsoft guns, replica guns, or other imitation firearms*

You cannot list: Not allowed

- *Firearms regardless of their ability to fire, how old they are, or their status as collectibles, including flintlock and muzzleloader guns*
- *Starter pistols or blank guns, regardless of their markings*
- *Pin fire guns*
- *Zip guns*
- *Cannons (see exceptions above)*

Not allowed
You cannot list:

- *Ammunition used in a firearm, including, but not limited to:*
- *Live ammunition*
- *Blank ammunition*
- *Inert ammunition*

- *Dummy ammunition*
- *Complete paper cartridges*

97. Michael Beck used the gun in a crime. George Padula conceded that he purchased the movie prop gun on eBay in which eBay stated that the prop gun could not be converted to a working gun. Because of the depraved act of Michael Beck, George Padula was indicted for illegal possession of a firearm. On June 28, 2021, Mr. Padula was sentenced by the Honorable Raymond J. Dearie to 66 months in prison. Please find the indictment attached as **Exhibit “B”**.

98. Contrary to eBay’s warranty that the prop gun could not be converted to a working gun, ballistics experts for the Government tested the starter pistol and determined that it could be converted to fire. During Mr. Padula’s sentencing, the Honorable Raymond J. Dearie goes on to state that there was “very little doubt that [the weapon] does qualify as a firearm given the materials before me and... report where the experts converted this weapon.” That the prop gun was in fact an illegal firearm essentially makes eBay one of the biggest traffickers of firearms in the world and makes PayPal and the United States post office complicit in such crimes. Please find the sentencing transcript attached as **Exhibit “C”**.

99. Plaintiff brings this claim individually, and on behalf of all similarly situated residents in and under the unjust enrichment laws of each of the 50 states and the District of Columbia.

100. As a direct and proximate result of Defendants’ misconduct as set forth above, Defendant has been unjustly enriched.

101. Specifically, by its misconduct described herein, Defendant has accepted a benefit to detriment of Plaintiff.

102. Defendants retention of the full amount of monies paid for its Products violates the fundamental principles of justice, equity, and good conscience.

103. Defendants accepted the benefit based on its misrepresentations and omissions regarding its Product to the Plaintiff, and it would be inequitable for the Defendant to retain the benefit of this monies, as it was paid the money under false pretenses.

104. Defendants have obtained money to which it is not entitled, and interest on that money, and under these circumstances equity and good conscience require that the Defendants return the money with interest to the Plaintiff.

105. Defendants were unjustly enriched when they took money from George Padula and falsely advertised and misrepresented that they were selling a prop gun to be used for acting in movies. Defendants were unjustly enriched, George Padula did not give them currency for an illegal gun but for a prop gun. According to the Federal government it was not a prop gun that George Padula received.

106. As direct and proximate result of the foregoing, Plaintiff has been damaged in an amount to be determined at trial.

RELIEF DEMANDED


WHEREFORE, Plaintiff demands judgment as follows:

- (A) Awarding against the Defendants, jointly and severally, an amount to be determined at trial, but no less than the sum of \$100,000,000, plus interest.
- (B) Awarding against the Defendant reasonable expenses, including its reasonable attorney's fees, incurred in this action;
- (C) Awarding George Padula against the Defendants, jointly and severally, its reasonable costs and disbursements incurred in this action; and
- (D) Granting George Padula such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all causes of action and issues so triable.

Dated: October 13, 2021
New York, NY



Elio Forcina
Attorney for the Plaintiff
66-85 73rd Place
Middle Village, NY 11379
347-528-7099

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GEORGE PADULA

Docket No.:

Plaintiff,

-against-

**AMENDED
COMPLAINT**

EBAY, and MAXARMORY

Defendants.

-----X

AMENDED COMPLAINT

Elio Forcina
Attorney for Plaintiff
66-85 73rd PLACE, 2ND FLOOR
MIDDLE VILLAGE, NEW YORK 11379
TEL: (347) 528-7099

Pursuant to 22 NYCRR §130-1.1a, the undersigned, an attorney admitted to practice in the Courts of the State of New York, hereby certifies that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of this document and the contentions contained therein are not frivolous



ELIO FORCINA, ESQ